

**ANNUAL REPORT
OF THE
INDIANA CHILD CUSTODY AND SUPPORT
ADVISORY COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2002

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

INFORMATIONAL REPORT

Indiana Child Custody and Support Advisory Committee

Approval of a study committee report requires the affirmative votes of a majority of the members on the committee. (see Legislative Council Resolution 02-02, adopted July 24, 2002). This report was not officially approved by the committee due to the lack of a quorum at its final meeting.

I. STATUTORY DIRECTIVE

The Indiana General Assembly enacted IC 33-2.1-10 directing the Committee to review the child support guidelines adopted by the Supreme Court. The Committee shall make recommendations, if appropriate, concerning amendments to the guidelines. In reviewing the guidelines and formulating recommendations, the Committee shall consider all relevant matters, including but not limited to the following:

- (1) The mathematics pertaining to the child support guideline chart.
- (2) The actual costs of supporting a child.
- (3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
- (4) Equality of child support awards for the children of the parties, regardless of birth order.
- (5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
- (6) The age of a child to the extent that the child may require different amounts of support at different ages.
- (7) Clarification regarding under what circumstances, if any, support may be abated.
- (8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
- (9) The application of the guidelines to a split custody situation.
- (10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed had the family remained intact.

In addition to the duties enumerated above the Committee shall review custody, educational expenses, and other items relating to the welfare of a child of a family that is no longer intact.

II. SUMMARY OF WORK PROGRAM

The Committee met three times during the interim.

The first meeting was held at the State House on September 10, 2002. The Committee discussed topics for the interim session.

The second meeting was held at the State House on September 30, 2002. The topics of discussion included: (1) the review of the child support guidelines by the Domestic Relations Committee of the Indiana Judicial Conference; (2) the Indiana Supreme Court Pro Se Internet Project; (3) child support collections by the IV-D division of the Marion County Prosecutor's Office; and (4) equal rights for children.

The third meeting was held at the State House on October 23, 2002. The Committee heard testimony on binding arbitration in domestic relations cases.

III. SUMMARY OF TESTIMONY

Review of Child Support Guidelines

The Committee heard testimony concerning the federal law that requires review and revision of state child support guidelines every four years. The Domestic Relations Committee of the Indiana Judicial Conference is currently undertaking the review. The Committee is considering adding language to the child support guidelines to address joint custody because the guidelines as currently constituted do not adequately address this issue.

Indiana Supreme Court Pro Se Internet Project

The goal of the site is to provide basic information and forms for pro se litigants in domestic relations cases. A recent poll of judges at the Indiana Judicial Conference indicated a high incidence of: (1) pro se litigants in domestic relations cases; (2) unpreparedness of pro se litigants; and (3) trial court judges having to elicit testimony from pro se litigants.

Child Support Collections by the Marion County Prosecutor's Office

The collection of child support by the IV-D division of the Marion County Prosecutor's Office has three primary goals. The first goal is to establish paternity, the second is to enforce child support orders for custodial parents, and the third is to assist in the modification of child support orders.

The Marion County IV-D division has between 80,000 and 100,000 open cases per year. Of those cases about 25,000 are litigated and about 3% result in incarceration. The division also provides education, employment, and community service programs for child support obligors.

Arbitration in Domestic Relations Cases

The committee heard testimony about a recent Indiana Court of Appeals decision that may prevent the use of arbitration in domestic relations cases. (See In re the Marriage of Troy D. Cohoon v. Daphne D. Cohoon, 770 N.E.2d 885 (Ind. App. 2002). The Cohoon decision questioned the current construction of arbitration rules as applied in domestic relations cases but indicated that providing a party the ability to appeal an arbitrator's decision would cure the defect. It was recommended that the committee consider legislation to comport with the Cohoon decision.

WITNESS LIST

Randall T. Shepard (Chief Justice of the Indiana Supreme Court)

Anthony Zapata (Attorney with the Division of State Court Administration and Pro Se Project Director)

Scott Cooke (Assistant Chief Deputy Prosecutor of the Marion County Prosecutor's IV-D Division)

Marge Hefner

Bruce Pennamped (Attorney and Committee member)